

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
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4 U.S. Bank Trust, N.A., as Trustee for LSF9
5 Master Participation Trust,

6 Plaintiff

7 v.

8 Operture, Inc.,

9 Defendant

Case No.: 2:16-cv-02938-JAD-NJK

**Order Adopting Report and
Recommendation [ECF No. 10],
Ordering Default be Entered Against
Defendant, and Ordering Supplemental
Briefing**

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11 U.S. Bank Trust, N.A., brings three claims for relief against Operture, Inc.: (1) quiet title and
12 declaratory relief under 28 U.S.C. § 2201, NRS 30.010 et seq., and NRS 40.010; (2) preliminary
13 injunction; and (3) unjust enrichment.¹ Magistrate Judge Nancy J. Koppe recommends that default
14 judgment be entered against Operture for failing to retain counsel. The Report and Recommendation
15 was entered March 24, 2017. Objections were due April 7, 2017. “[N]o review is required of a
16 magistrate judge’s report and recommendation unless objections are filed.” *Schmidt v. Johnstone*,
17 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003). *See also Thomas v. Arn*, 474 U.S. 140, 150 (1985);
18 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Operture has filed no objections
19 to the Report and Recommendation.

20 Accordingly, and with good cause appearing,

21 It is hereby ORDERED that Magistrate Judge Koppe’s Report and Recommendation [ECF
22 No. 10] is **ACCEPTED and ADOPTED**.

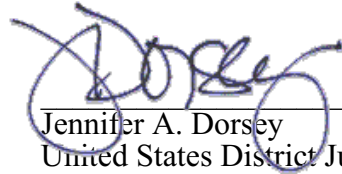
23 It is further ORDERED that **the Clerk of Court is directed to enter default in favor of**
24 **U.S. Bank Trust, and against Operture**.

25 U.S. Bank Trust is ORDERED to file a proposed order and judgment accompanied by a
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27 ¹ ECF No. 1 at 9–12. Technically, “preliminary injunction” is not a claim for relief, it’s a remedy.
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1 supplemental memorandum of points and authorities discussing the scope of relief legally available
2 and addressing the seven factors outlined by the Ninth Circuit in *Eitel v. McCool*.² If U.S. Bank
3 Trust seeks fees and costs, U.S. Bank Trust is further ORDERED to submit a separate motion for
4 fees and costs that complies with Local Rule 54-14. U.S. Bank Trust is ORDERED to submit all
5 filings within 10 days of the date of this order.

6 DATED April 21, 2017.

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9 Jennifer A. Dorsey
United States District Judge

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25 ² The seven factors outlined in *Eitel* include: (1) the possibility of prejudice to the plaintiff; (2) the merits
26 of plaintiff's substantive claim; (3) sufficiency of the complaint; (4) the sum of money at stake in the
27 action; (5) the possibility of a dispute concerning material facts; (6) whether the default was due to
excusable neglect; and (7) the strong policy underlying the Federal Rules of Civil Procedure favoring
28 decisions on the merits. *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986) .